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REMARKS/ARGUMENTS

The Office Action dated March 2, 2007 has been reviewed and carefully considered. Claims 1, 10, 16, 22 and 23 have been amended. Claims 1-23 remain pending, the independent claims being claims 1, 10, 16, 22 and 23. Reconsideration of the above-identified application, as amended and in view of the following remarks, is respectfully requested.

As an initial matter, the Title of the invention was objected to as being "not descriptive" (Office Action, paragraph 4). In response, the Applicant has replaced the Title with one substantially similar to the one suggested by the Examiner.

Claims 16-23 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. In particular, the Examiner states that the "recitation 'providing a recommendation to a user' has not been given patentable weight because the recitation occurs in the preamble" (Office Action, paragraph 2). In response, Applicant has amended each of independent claims 16, 22 and 23 to recite in the body of the claim that an output means is used to provide a recommendation to a user. Support for this feature is found in the specification, inter alia, as item 150 of Fig. 1. Applicant submits that these claims, as being directed to obtaining a useful, concrete and tangible result, now clearly comply with the requirements of 35 U.S.C. §101. Accordingly, Applicant respectfully requests that the 35 U.S.C. §101 rejections be withdrawn.

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Claims 1-15 stand rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 6 and 15 of copending Application No 10/014180. Applicant respectfully disagrees with, and explicitly traverses, the Examiner's reason for rejecting the claims. Claims 1-15 each recite the feature: "partitioning a plurality of items into clusters of similar items, said plurality of items corresponding to a selection history by at least one third party." Claims 6 and 15 of copending Application No. 10/014180 fail to claim this "third party file history" feature of the invention. Thus, a clear line of demarcation between the applications is provided. Accordingly, Applicant respectfully requests that the rejection be withdrawn.

Claims 1-23 stand rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 1-20 of copending Application No 10/014192. Applicant respectfully disagrees with, and explicitly traverses, the Examiner's reason for rejecting the claims. Claims 1-23 each recite the feature: "partitioning a plurality of items into clusters of similar items, said plurality of items corresponding to a selection history by at least one third party." Claims 1-20 of copending Application No. 10/014192 fail to claim this "third party file history" feature of the invention. Thus, a clear line of demarcation between the applications is provided. Accordingly, Applicant respectfully requests that the rejection be withdrawn.

Claims 1-22 stand rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 10 and 17 of copending Application No 10/183762. Applicant respectfully disagrees with, and explicitly traverses, the Examiner's reason for rejecting

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the claims. With respect to Application No. 10/183762, claims 10 and 17 each contain the feature that the number of clusters, k, is incremented until a "measure of compactness" is attained (reference independent claims 1 and 11). Claims 1-22 of the present invention fail to contain this feature. Thus, a clear line of demarcation between the applications is provided. Accordingly, Applicant respectfully requests that the rejection be withdrawn.

Claims 1-15 stand rejected under 35 USC 103(a) as being unpatentable Ehrmantraut et al., The Personal Electronic Program Guide (Hereinafter, Ehrmantraut) in view of Data et al., Symbolic Nearest Mean Classifiers (Hereinafter, "Datta") and further in view of Datta et al. Learning Symbolic Prototypes (Hereinafter "Datta/Kibler").

Applicant respectfully disagrees with, and explicitly traverses, the Examiner's reason for rejecting the claims. A claimed invention is prima facie obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations.

Claim 1, as amended, recites:

1. (Currently amended) A method for providing a recommendation to a user, said method comprising:

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    partitioning a plurality of items into clusters of similar items, said plurality of items corresponding to a selection history by at least one third party, said partitioning step comprising identifying one or more mean items for a plurality of items, J, each of said items having at least one symbolic attribute, each of said symbolic attributes having at least one possible value;

    wherein for each mean identified, a variance is computed of said plurality of items, J, for each of said possible symbolic values, $x\mu$, for each of said symbolic attributes; and for each of said symbolic attributes, at least one symbolic value, $x\mu$, that minimizes said variance as the mean symbolic value is selected; and,

    wherein said recommendation is based at least in part on said clusters. clusters.

A distinctive feature of the present invention, as defined by claim 1, is that the plurality of items being partitioned into clusters corresponds to "a selection history by at least one third party" (at line 4). As described in the specification (e.g., at paragraph [0005]), this feature overcomes the problem in the prior art in enabling the device to make recommendations when the recommendation device is first attained and there is insufficient observed viewing behavior relating to the user.

Ehrmantraut teaches the creation of a Personal Electronic Program Guide (EPG) regarding the <u>individual view preferences of a user</u> [emphasis added]" (Abstract). Thus Ehrmantraut is an example of the problem in the prior art discussed above — and for which a user history needs to be compiled before recommendations can be made. In particular, Ehrmantraut fails to teach or suggest using a selection history of at least one third party to create partitioned clusters and to thereby derive a recommendation to a user.

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Datta teaches various algorithms associated with k-means clustering as a means of "finding groups of examples in the same class" (page 4, col. 2, second paragraph). In particular he teaches weighting, distance measures and determining the number of clusters, k. Datta/Kibler describes how the mean of a set of examples, S, is derived prior to its use in a classification scheme. Like Ehrmantraut, neither Datta nor Datta/Kibler addresses the "third party file history" feature of the invention.

Having shown that the combined device resulting from the teachings of the cited references does not include all the elements of claim 1 of the present invention, Applicant submits that the reasons for the Examiner's rejections of claim 1 has been overcome and can no longer be sustained. Independent claims 10, 16, 22 and 23 contain features similar to claim 1 and are deemed patentable for the same reasons. Accordingly, Applicant respectfully requests reconsideration, withdrawal of the rejection and allowance of claims 1, 10, 16, 22 and 23.

Claims 2-9, 11-15, and 17-21 are dependent from one of the independent claims discussed above, and are believed allowable for at least the same reasons and any rejections thereof should be withdrawn.

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CONCLUSION

For all the foregoing reasons, it is respectfully submitted that all the present claims

are patentable in view of the cited references.   A Notice of Allowance is respectfully

requested.

Respectfully submitted,

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